

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

ADJUTANT GENERAL

OCT 28 2013

In the Matter of

Frank Leto, Request for Exemption from the
 Captioning Rules

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Federal Communications Commission
 Office of the Secretary

Case Identifier:
 CGB-CC-0011

AFFIDAVIT OF FRANK LETO

1. My name is Frank Leto. I have the capacity to provide this Affidavit and am over the age of 21 and under no disability. I am a citizen and resident of Reno, Nevada.

2. In response to the letter dated September 27, 2013 from Cheryl J. King, of the Consumer and Governmental Affairs Bureau, I am providing this information to supplement a petition for exemption from the Federal Communications Commission's closed captioning rules filed on June 28, 2012.

3. I am the owner of the production company Zomboo, Inc., which was established in 1999. I am seeking a closed captioning exemption for the show "Zomboo's House of Horror Movies" ("Zomboo's House"). Zomboo's House is the sole program produced by Zomboo, Inc.

4. Zomboo's House airs every Saturday at 11:35 p.m. PST on KOLO-TV in Reno, Nev. (Facility ID 63331).

5. As demonstrated by the attached IRS Form 1040 for a sole proprietorship (see Exhibit A), Zomboo, Inc. made a small profit of \$370.00 this year, after operating at a net loss of -\$1,748 in 2010. Zomboo, Inc.'s only other assets comprise a bank account

that contains \$484.57. Zomboo's House is produced at Zomboo, Inc. by volunteers who receive no compensation. Any monetary gain received through the sale of Zomboo merchandise, such as T-shirts, coffee mugs, or DVDs, funds the website, domain name, props, and makeup used in the show and does not cover all of the costs involved in producing the show. This is not a money making operation, Zomboo's House is a local institution and makes a difference in the community.

6. Zomboo's House is a locally-produced program. I host each episode in full costume and make-up as Zomboo. Each episode consists of a campy, public-domain horror or science-fiction movie spliced with comic interludes where Zomboo appears and offers commentary about the movie. When time permits to fill out the two-hour time frame, a serial chapter or cartoon is also included in the show. All of these materials are acquired at no cost.

7. Zomboo's House is much more than a TV show. Zomboo has been a local icon for more than twelve years, and I appear as Zomboo at many charities and events at no charge, such as United Blood Services, the Salvation Army, the Juvenile Diabetes Walk, the Multiple Sclerosis Walk, Camp Git-Along, and appearances for children with disabilities. *See Exhibit B.*

8. It would be economically burdensome to provide closed captioning for Zomboo's House. As Exhibit A demonstrates, Zomboo, Inc. made a profit of only \$370 this year. According to the most recent estimate I received from Bubba Newman Productions, it would cost \$800 a week to caption this show. A second quote from Denny Barr Captions indicated they would charge us \$480 to caption each show. He stated that this was a discounted price. Even with the discounted quote for captioning,

the annual cost to caption this show would total \$24,960 per year. *See Exhibit C.*

Adding captioning costs would push Zomboo, Inc.'s annual loss to nearly over \$24,500, an unsustainable amount that would force Zomboo's House off the air.

9. My program distributor, broadcast station KOLO-TV, rejected my request for closed captioning assistance. KOLO-TV informed me "that we will no longer be able to air your program, "Zomboo's House of Horror Movies," unless it is closed-captioned or you have a favorable response to your resubmission for an exemption from the FCC." *See Exhibit D.*


10. Although I frequently reach out to individuals and community groups, I have not been able to secure sponsorship sources to allow closed captioning of Zomboo's House. Reno is a mid-size market that has been hit very hard by the housing crisis. Many businesses have closed, and remaining advertisers have cut back. In addition, Zomboo's House small, cult following is not an advertising draw.

11. As stated above, providing captions at \$480-\$800 per show would force Zomboo, Inc. to cease production and remove Zomboo's House from the air.

12. I respectfully that the Commission grant Zomboo's House of Horrors an exemption from the closed captioning rules.

13. I declare under penalty of perjury that the information contained in this submission is true and correct.

By:


Frank Leto

Dated: October 28, 2013

Exhibit A

**SCHEDULE C-EZ
(Form 1040)**Department of the Treasury
Internal Revenue Service (99)

Name of proprietor

Frank Leto

Net Profit From Business

(Sole Proprietorship)

► Partnerships, joint ventures, etc., generally must file Form 1065 or 1065-B.
► Attach to Form 1040, 1040NR, or 1041. ► See instructions on page 2.

OMB No. 1545-0074

2012Attachment
Sequence No. 09A**Part I General Information**

You May Use
Schedule C-EZ
Instead of
Schedule C
Only If You:

- Had business expenses of \$5,000 or less.
- Use the cash method of accounting.
- Did not have an inventory at any time during the year.
- Did not have a net loss from your business.
- Had only one business as either a sole proprietor, qualified joint venture, or statutory employee.

And You:

- Had no employees during the year.
- Are not required to file Form 4562, Depreciation and Amortization, for this business. See the instructions for Schedule C, line 13, to find out if you must file.
- Do not deduct expenses for business use of your home.
- Do not have prior year unallowed passive activity losses from this business.

A Principal business or profession, including product or service
ENTERTAINMENT

B Enter b

C Business name. If no separate business name, leave blank.
ZOMBOO

D Enter your EIN (see page 2)

E Business address (including suite or room no.). Address not required if same as on page 1 of your tax return.
5200 Summit Ridge Dr., Apt. 4312
City, town or post office, state, and ZIP code
Reno, NV 89523

F Did you make any payments in 2012 that would require you to file Form(s) 1099? (see the Schedule C instructions)

☐ Yes ☒ No

G If "Yes," did you or will you file required Forms 1099?

☐ Yes ☐ No**Part II Figure Your Net Profit**

1	Gross receipts. Caution. If this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked, see <i>Statutory Employees</i> in the instructions for Schedule C, line 1, and check here	1	3,625.
2	Total expenses (see page 2). If more than \$5,000, you must use Schedule C	2	3,255.
3	Net profit. Subtract line 2 from line 1. If less than zero, you must use Schedule C. Enter on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13 and Schedule SE, line 2 (see instructions). (Statutory employees, do not report this amount on Schedule SE, line 2.) Estates and trusts, enter on Form 1041, line 3	3	370.

Part III Information on Your Vehicle. Complete this part only if you are claiming car or truck expenses on line 2.

- 4 When did you place your vehicle in service for business purposes? (month, day, year) ►
- 5 Of the total number of miles you drove your vehicle during 2012, enter the number of miles you used your vehicle for:
- a Business _____ b Commuting (see page 2) _____ c Other _____
- 6 Was your vehicle available for personal use during off-duty hours? ☐ Yes ☐ No
- 7 Do you (or your spouse) have another vehicle available for personal use? ☐ Yes ☐ No
- 8a Do you have evidence to support your deduction? ☐ Yes ☐ No
- b If "Yes," is the evidence written? ☐ Yes ☐ No

Account Listing

CONTACT US | HELP | LOG OFF

Overview

Accounts

ePay

Self Service

Balances

Account

*9077=CK=1 Account Not Found.
*9077=BA=1

Actual

\$ 000.00
\$ 500.57

Available

\$ 000.00
\$ 494.57

Scheduled Transfers

There are no transfers scheduled.
Schedule a Transfer

Quick Transfer

From

Not Set

To

Not Set

Amount

Transfer

New!
Mobile Banking

Download the app
and do your banking
from anywhere.

CLICK HERE

Don't forget to sign
up for eStatements -
the fast, secure and
convenient way to
view your monthly
statement online. If
you have a We Aspire
or We Rock Checking
account, you must sign
up for eStatements in
order to qualify for
your benefits.

Greater Nevada Credit Union
Branch Member Service Phone: (800) 421-8074

Branch Member Service is available 24 hours a day.

Branch Terms and Conditions



NMLS

Your savings federally insured to at least \$250,000 and backed by the full faith and credit of the United States Government. National Credit Union Administration, a U.S. Government Agency. Copyright © 2008 Greater Nevada Credit Union

Exhibit B

ZOMBOO'S HOUSE OF HORROR MOVIES and ZOMBOO, INC.

Zomboo's House of Horror Movies is a two-hour program which airs every week in the Reno, Nevada television market. It is produced by Zomboo, Inc., the production company which is registered with the Secretary of State in the State of Nevada. The program is a throwback to the earlier days of television featuring a public domain horror movie hosted by Zomboo. Zomboo and other characters are not compensated; they are all volunteers. What little money that is generated by the show goes to pay for maintaining the set, the website, www.zomboo.com, video tape or recording chips, props, and makeup. The show is entering it's 14th season, and the character (Zomboo) is considered a local icon.

Zomboo is involved with many local charities (The Salvation Army, Multiple Sclerosis, Mentally-Challenged Citizens Group) and civic events (Nevada Historical Society, Halloween at the Governor's Mansion in Carson City, Nevada Day Parade, City of Sparks Pumpkinpalooza Event for kids). Zomboo also appears at "Career Day" at local schools to talk about the television business. Zomboo appears at no charge.

Zomboo's House Of Horror Movies
15 hours ago

Home Find Fri

Like

One of these clowns is not like the others, one of these clowns is not the same... At the Nevada Day Parade with the Kerak Shriener Clowns.



Like · Comment · Share

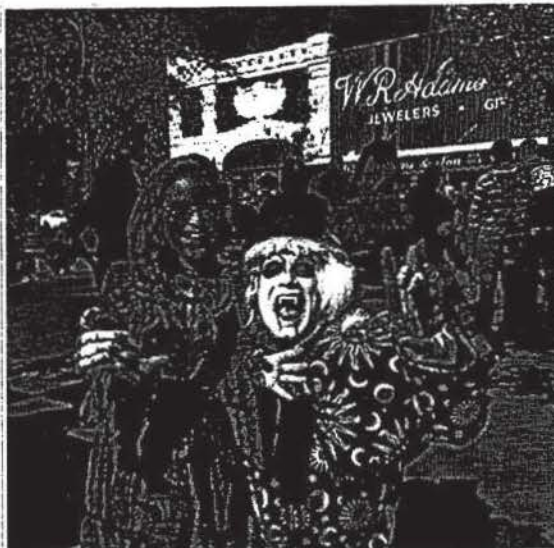
18 people like this.



Write a comment...

Zomboo's House Of Horror Movies
16 hours ago

Pumpkinpalooza is all about the kids, and it is so much fun to hang out with the kids and their parents.



Like · Comment · Share

45 people like this.



Rod Foxwell well if it isn't my old pal Zomboo
15 hours ago via mobile · Like



Lisa Hawthorne-Crall I miss Zomboo. I wish Ohio had Zomboo
13 hours ago via mobile · Like

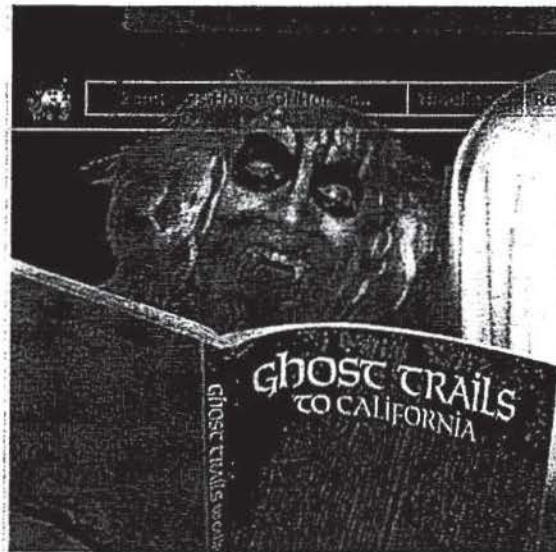
Write a comment...

Chat (9)



Zomboo's House Of Horror Movies
16 hours ago

Here is a photo from the Nevada Historical Society. I got to meet some "happy mediums."



Like · Comment · Share

31 people like this.



Write a comment...



Zomboo's House Of Horror Movies
16 hours ago

It was estimated that a crowd of 40,000 people lined the streets of Carson City, our state capitol, for this year's Nevada Day Parade on Saturday. The weather was sunny and warm and I enjoyed meeting and talking to many of my fans along the parade route. any thanks to Phil Galbraith for this "action photo!"





Zomboo's House Of Horror Movies
May 17

I had the pleasure of hosting their "Coming Out Party" at The Knitting Factory... They recently came out with their second studio-produced CD, "Black Magic." Three additional bands played, Drinking With Clowns, Bazooka Zgo, and Scarlet Presence, and all proceeds went to Future Kind, a wonderful charity which helps underprivileged children. A good time was had by all! And the music was GREAT! Thanks for having me!



Like · Comment · Share

54 2



Zomboo's House Of Horror Movies
May 6

It was great to be able to participate in this year's MS Walk at Idlewild Park in Reno. Here is part of our team. It was a beautiful sunny day and it looked like the biggest crowd yet! Thanks to everyone who supported and participated in this wonderful event.



Like · Comment · Share

36 3 1

Chat (9)

Exhibit C

Denny Barr Captions
1905 West Thomas Street
Suite D 283
Hammond, LA 70401

Estimate

Date 10/19/2013
Estimate # 4

Name / Address

Frank Leto
Zombo, Inc.
5200 Summit Ridge Drive #4312
Reno, Nevada 89523

P.O. #
Terms

Due Date 10/19/2013
Other

Description	Qty	Rate	Total
Price of transcription and closed captioning of 2 hour Zombo Movies @ 4.00 per min. Mr Leto, this price is a discounted price based on 4.00 per minute. The average rate for this service is in the 8 to 10 dollar per minute charge. I realize that this is local programming and have priced it accordingly. sincerely, dennis barberio	1	480.00	480.00
Subtotal			\$480.00
Sales Tax (0.0%)			\$0.00
Total			\$480.00

Denny Barr Captions
dennybarr@dennybarrcaptions.com
<http://www.dennybarrcaptions.com/>

4349810678

For all billing questions please contact Greg Newman
Thank you for your business!

ESTIMATE OF COSTS TO CAPTION PROGRAMMING BASED ON THE QUOTE:

Zomboo's House of Horror movies is broadcast every Saturday night for a total of 52 shows a year. Based on the lesser captioning cost of \$480 per show, the annual cost breaks down to roughly \$2080 per month, or \$24,960 per year.

Exhibit D



October 23, 2013

KOLO-TV
4850 Ampere Drive
Reno, NV 89502

Mr. Frank Leto
Zomboo, Inc.
5200 Summit Ridge Drive #4312
Reno, NV 89523

Dr. Mr. Leto:

As you are aware the FCC regulations regarding Closed-Captioning have changed. This letter is inform you that KOLO will no longer be able to air your program "Zomboo's House of Horror Movies" unless it is closed-captioned or you have a favorable response to your submission for an exemption from the FCC.

We look forward to hearing from you and hopefully continue airing your program. Please don't hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Miriam Gonzalez".

Miriam Gonzalez
Media & Programming Manager
KOLO-TV